IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 5315 of 1996

to

FIRST APPEALNo 5319 of 1996

Hon'ble MR.JUSTICE Y.B.BHATT

And

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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UNITED INDIA INSURANCE CO LTD

Versus

LEGAL HEIRS OF DECD.MEPABHAI KARSHANBHAI

Appearance:

MR PV NANAVATI for Petitioner No. 1

MR DIVYESH SEJPAL for Respondent-original claimants

CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE M.C.PATEL

Date of decision: 02/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. Heard the learned counsel for the appellant and Mr. Divyesh Sejpal for respondents-original claimants. Appeals admitted. Mr. Divyesh Sejpal waives service of notice for respondents-original claimants.

2. On a joint request of learned counsel for the respective parties, the appeals are taken up for final hearing today.

3. These are appeals under section 173 of the Motor Vehicles Act, 1988, wherein the appellant Insurance Company has challenged the judgement and award of the Motor Accident Claims Tribunal at Bhavnagar.

4. It is pertinent to note that the appellant Insurance Company is the sole appellant in the present appeals. It is by now well settled law that in such an appeal, the only grounds available to the appellant would be the statutory grounds as contemplated by section 149(2) of the said Act. In such an appeal the appellant cannot be permitted to urge any ground on merits and quantum, or such other grounds which would be available to the owner or driver of the vehicle in question.

5. Admittedly these appeals do not involve any ground which could be urged as the statutory ground of defence available and arising from section 149(2) of the Act. Consequently we are obliged to dismiss these appeals. Accordingly the appeals are dismissed with no order as to costs.

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